

CONFERENCE COMMITTEE REPORT DIGEST FOR ESB 253

Citations Affected: IC 4-33-4-19; IC 14-25-10-4; IC 14-26-2-23; IC 14-26-2-6; IC 14-26-2-9.

Synopsis: Activities along shorelines. Conference committee report for ESB 253. Requires that a person who performs certain activities concerning water levels, shorelines, and lake beds along a lake or within ten feet of a lake obtain a permit from the department of natural resources. Directs the natural resources commission to adopt rules. Makes conforming changes. Repeals superseded laws concerning permits to change water levels, shorelines, and lake beds. **(This conference committee report removes the language that increases the penalty for littering in certain areas.)**

Effective: July 1, 2006.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT:

Your Conference Committee appointed to confer with a like committee from the House upon Engrossed House Amendments to Engrossed Senate Bill No. 253 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

- 1 Delete everything after the enacting clause and insert the following:
- 2 SECTION 1. IC 4-33-4-19 IS AMENDED TO READ AS
- 3 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 19. The commission
- 4 shall revoke the license of a licensee who operates a riverboat upon
- 5 Patoka Lake if that licensee violates any of the following:
- 6 ~~(1) IC 14-26-2-6.~~
- 7 ~~(2) (1) IC 14-26-2-7.~~
- 8 **(2) IC 14-26-2-23.**
- 9 **(3) IC 14-28-1.**
- 10 SECTION 2. IC 14-25-10-4 IS AMENDED TO READ AS
- 11 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. Fees received by the
- 12 department under the following statutes shall be deposited in the fund:
- 13 ~~(1) IC 14-26-2-9.~~
- 14 **(1) IC 14-26-2-23.**
- 15 **(2) IC 14-26-5-4.**
- 16 **(3) IC 14-28-1-22.**
- 17 **(4) IC 14-29-3-2.**
- 18 **(5) IC 14-29-4-4.**
- 19 SECTION 3. IC 14-26-2-23 IS AMENDED TO READ AS
- 20 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 23. **(a) Unless a**
- 21 **person obtains a permit from the department under this section**

and conducts the activities according to the terms of the permit, a person may not conduct the following activities:

(1) Over, along, or lakeward of the shoreline or waterline of a public freshwater lake:

(A) excavate;

(B) place fill; or

(C) place, modify, or repair a temporary or permanent structure.

(2) Construct a wall whose lowest point would be:

(A) below the elevation of the shoreline or waterline; and

(B) within ten (10) feet landward of the shoreline or waterline, as measured perpendicularly from the shoreline or waterline;

of a public freshwater lake.

(3) Change the water level, area, or depth of a public freshwater lake or the location of the shoreline or waterline.

(b) An application for a permit for an activity described in subsection (a) must be accompanied by the following:

(1) A nonrefundable fee of one hundred dollars (\$100).

(2) A project plan that provides the department with sufficient information concerning the proposed excavation, fill, temporary structure, or permanent structure.

(3) A written acknowledgment from the landowner that any additional water area created under the project plan is part of the lake and is dedicated to the general public use with the public rights described in section 5 of this chapter.

(c) The department may issue a permit after investigating the merits of the application. In determining the merits of the application, the department may consider any factor, including cumulative effects of the proposed activity upon the following:

(1) The shoreline, waterline, or bed of the lake.

(2) The fish, wildlife, or botanical resources.

(3) The public rights described in section 5 of this chapter.

(4) The management of watercraft operations under IC 14-15.

(5) The interests of a landowner having property rights abutting the lake or rights to access the lake.

(d) A contractor or agent of the landowner who engages in an activity described in subsection (a)(1), (a)(2), or (a)(3) must comply with the terms of a permit issued under this section.

(e) The commission shall adopt rules in the manner provided in ~~IC 14-10-2-4~~ under IC 4-22-2 to do the following:

(1) Assist in the administration of this chapter.

(2) Provide objective standards for licensing:

(A) the placement of a temporary or permanent structure or material; or

(B) the extraction of material;

over, along, or within a shoreline or waterline: issuing permits under this section, including standards for the configuration of piers, boat stations, platforms, and similar structures. The

standards:

(A) may provide for a common use if the standard is needed to accommodate the interests of landowners having property rights abutting the lake or rights to access the lake; and

(B) shall exempt any class of activities from licensing, including temporary structures, if the commission finds that the class is unlikely to pose more than a minimal potential for harm to the public rights described in section 5 of this chapter.

(3) Establish a process under IC 4-21.5 for the mediation of disputes among ~~riparian owners~~ persons with competing interests or between a ~~riparian owner~~ person and the department. ~~concerning the usage of an area over, along, or within a shoreline or waterline for a matter within the jurisdiction of this chapter. The A rule adopted under this subsection~~ must provide that:

(A) if good faith mediation under the process fails to achieve a settlement, the department shall make a determination of the dispute; and

(B) a person affected by the determination of the department may seek administrative review by the commission.

SECTION 4. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2006]: IC 14-26-2-6; IC 14-26-2-9.

SECTION 5. [EFFECTIVE JULY 1, 2006] (a) A permit issued under IC 14-26-2-6 or IC 14-26-2-9, before their repeal by this act, is valid and shall be considered a permit issued under IC 14-26-2-23, as amended by this act. A permit described in this SECTION expires on the date the permit would have expired if IC 14-26-2-6 and IC 14-26-2-9 had not been repealed by this act.

(b) This SECTION expires July 1, 2008.

(Reference is to ESB 253 as reprinted February 17, 2006.)

Conference Committee Report
on
Engrossed Senate Bill 253

Signed by:

Senator Weatherwax
Chairperson

Representative Hoffman

Senator Lewis

Representative Bischoff

Senate Conferees

House Conferees